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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application)
of the Cincinnati Gas & Electric)
Company to Modify its Non-)
Residential Generation Rates to)
Provide for Market-Based) Case No. 03-93-EL-ATA
Standard Service Offer Pricing)
and to Establish a Pilot)
Alternative Competitively-Bid)
Service Rate Option Subsequent)
to Market Development Period)

In the Matter of the Application of The)
Cincinnati Gas & Electric Company for)
Authority to Modify Current Accounting)
Procedures for Certain Costs Associated) Case No. 03-2079-EL-AAM
With The Midwest Independent)
Transmission System Operator)

In the Matter of the Application of The)
Cincinnati Gas & Electric Company for)
Authority to Modify Current Accounting)
Procedures for Capital Investment in its) Case No. 03-2081-EL-AAM
Electric Transmission And Distribution) Case No. 03-2080-EL-ATA
System And to Establish a Capital)
Investment Reliability Rider to be)
Effective After the Market Development)
Period)

**MOTION FOR LEAVE TO SUPPLEMENT ITS MEMORANDUM CONTRA
BY
CONSTELLATION NEWENERGY, INC.,
MIDAMERICAN ENERGY COMPANY,
STRATEGIC ENERGY LLC, AND WPS ENERGY SERVICES, INC.
(aka OHIO MARKETERS GROUP)**

November 18, 2004

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MOTION FOR LEAVE TO SUPPLEMENT ITS MEMORANDUM CONTRA

Now come Constellation NewEnergy, Inc., MidAmerican Energy Company, Strategic Energy LLC and WPS Energy Services, Inc. (“Ohio Marketers Group”) and pursuant to OAC 4901-1-06 move for leave to amend its Memorandum Contra in the above styled proceeding so as to address a single issue raised for the first time after the Ohio Marketers Group filed their Memorandum Contra.

MEMORANDUM IN SUPPORT OF MOTION

On October 29, 2004, The Cincinnati Gas and Electric Company (“CG&E”) filed an Application for Rehearing in the above styled proceeding. The CG&E Application was unique in that in addition to its prayer for rehearing as to portions of the Commission September 29, 2004 Opinion and Order, CG&E’s Application for Rehearing presented for the first time an “Alternative Plan”. The Alternative Plan was not a simple compromise of the May 19, 2004 Stipulation, as amended by part but not all of the Commission’s ordered amendments, but rather comprise a new program complete with two new retail customer charges. These two new charges -- an infrastructure maintenance fund or “IMF” and a stability rate tracker or “SRT” -- would increase the amount retail customers pay for their current distribution or standard service. The Alternative Plan coupled these new surcharges with an enhanced opportunity to waive the rate stabilization charge (“RSC”) for some shopping customers, and a reduction in the rates for the annual adjustment component (“AAC”) surcharge. The AAC surcharge was also made avoidable for some shopping customers.

The Alternative Plan was not presented as an amended Stipulation. Further, two of the signatory parties to the Stipulation, Dominion Retail, Inc. and Green Mountain Energy

Company, vehemently object to the Alternative Plan and urge the Commission to reverse its Opinion and Order and grant an unconditioned approval of the May 19th Stipulation. The core of Dominion and Green Mountain's argument to reject the Alternative Plan is that the Alternative Plan removes a \$ 7 million dollar residential shopping credit fund. Dominion and Green Mountain are both of the opinion that the \$7 million dollar residential fund makes the May 19th more advantageous for developing the residential market than the Alternative Plan. To support their view, both Green Mountain and Dominion presented somewhat identical charts which showed the "price to compare" (referred to in both Memoranda Contra as the "avoided cost") per kWh for 2006 for residential customers under the May 19th Stipulation, the Alternative Plan, and the Commission's Opinion and Order.

Since Green Mountain's and Dominion's argument supporting the May 19th Stipulation was filed contemporaneously with the Ohio Marketers Group Memorandum Contra, it was impossible for the Ohio Marketers Group to respond in their Memorandum Contra. Since the issue of which alternative: 1) the May 19th Stipulation; 2) September 29th Opinion and Order; or 3) the October 29th Alternative Plan is most favorable for residential shopping is an important quantitative issue for the Commission to consider on Rehearing, the Ohio Marketers Group would like to offer its observations. Thus, the Ohio Marketers Group requests leave to supplement its Memorandum Contra by adding the attached two pages which presents the same "avoided cost" analysis used by Green Mountain and Dominion Retail but which supports a different conclusion.

WHEREFORE, the Ohio Marketers Group seeks leave to file the attached two pages which addresses only the issue of the residential avoided cost.

Respectfully submitted,



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Attorneys for the Ohio Marketers Group

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Leave to Supplement was served either by email or regular U.S. mail, postage prepaid, this 18th day of November, 2004.



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